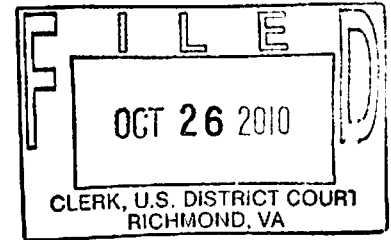


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



KIRK LEE LONEY,

Plaintiff,

v.

Civil Action No. 3:08CV820

DOUGLAS L. WILDER, et al.,

Defendants.

MEMORANDUM OPINION

Kirk Lee Loney, a federal prisoner proceeding pro se and in forma pauperis, filed this civil action. On August 20, 2010, the Court dismissed this action because it appeared that Loney had failed to comply with the Court's Memorandum Order entered December 30, 2008. That Memorandum Order requires Loney to "immediately advise the Court of his new address in the event that he is transferred, released, or otherwise relocated while the action is pending." On July 19, 2010 and August 25, 2010, mail addressed to Loney at P.O. Box 90043 was returned to the Court and marked as "undeliverable." Although Loney claims he "was never transferred or relocated," (Docket No. 49), his P.O. Box changed from 90043 to 1000. This change of address occurred some time between May 6, 2009 (Docket No. 16) and July 10, 2009 (Docket No. 20). On review, it appears that Loney did not explicitly bring his new mailing address to the Court's attention. The Court nevertheless was able to communicate with Loney because he changed his return address on envelopes he sent to the Court.

Federal Rule of Civil Procedure 59(e) permits a court to amend a judgment within twenty-eight days for three reasons: "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.'" EEOC v. Lockheed Martin Corp., Aero & Naval Sys., 116 F.3d 110, 112 (4th Cir. 1997) (quoting Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993)). In other words, it is a means by which the district court can correct its own mistakes, thereby "sparing the parties and the appellate courts the burden of unnecessary appellate proceedings." Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998) (internal quotations omitted).

In the interests of justice, the August 20, 2010 Memorandum Opinion and Order (Docket Nos. 43, 44) will be VACATED. Loney's "Motion for Reinstatement of Action" (Docket No. 49) will be GRANTED.

Loney must notify the Court explicitly if the address at which he may be reached changes. FAILURE TO DO SO MAY RESULT IN DISMISSAL OF THE ACTION.

An appropriate Order shall accompany this Memorandum Opinion.

\_\_\_\_\_/s/ **REP**  
Robert E. Payne  
Senior United States District Judge

Date: October 25, 2010  
Richmond, Virginia